



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

August 15, 1995

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

Robert L. Morgan
State Engineer

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**Graham Ranch
A.E. McIntosh
Mt. Pleasant, UT 84647:**

Dear Mr. McIntosh:

We have recently received complaints from water users on the main stem of the upper San Pitch River that water users on the tributaries were diverting more water or irrigating more land than allowed by their water rights. Our staff made a field inspection of the diversions in this area earlier this season. Although we could not confirm or resolve the complaints, the inspection revealed that in most cases there were not adequate measuring or control devices on the diversions.

The Utah State law is specific about the responsibilities and authority of the State Engineer concerning the distribution of water. Section 73-5-3 of the Utah, Code Annotated, 1953, as amended states in part:

"The state engineer shall divide, or cause to be divided, the water ... among the several appropriators entitled thereto in accordance with the right of each respectively, and shall regulate and control, or cause to be controlled, the use of such water by closing or partial closing of the headgates, ... or other controlling works of any ditch, canal, ... or other means of diversion as will prevent the waste of water or its use in excess of the quantity to which any appropriator is lawfully entitled"

This is generally accomplished by organizing a distribution system and appointing a river commissioner to regulate the water under the direction of the state engineer.

Regarding control structures and measuring devices, Section 73-5-4 of the code states in part:

"Every person using water in this state shall construct or install and maintain a substantial head gate, cap, valve or other controlling works, weir, flume and measuring device at each point where water is diverted or turned out, for the purpose of regulating and measuring the quantity of water that may be used. ... If the owner of irrigation works, canals, reservoirs, wells, pumps or tunnels shall refuse or neglect to construct such headgates, caps, valves, flumes or measuring devices after thirty days notice to do so by the state engineer, the state engineer may forbid the use of water until the user thereof shall comply with this requirement, or the state engineer may proceed to construct or install or cause to be installed such controlling works or measuring devices, and the cost of the same shall be a lien against the lands and water rights served thereby, and the state engineer is authorized to bring such action in the name of the state to foreclose such lien."

We would strongly encourage you to restrict your water use to the limits described in your water rights. That type of self regulation may require the installation of a control structure and/or measuring device. If you have questions concerning your water rights and the amount of water you are allowed to divert, you should contact the Richfield Regional Office of the Division of Water Rights for assistance. Their phone number is 896-4429. They may also be able to give you some advice on how best to install a measuring device in your situation.

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There is an organized distribution system on the main stem of the San Pitch River with an appointed river commissioner. We are not anxious to include the tributaries in this organization and to extend the area of the commissioner's regulation. However, if the reported problems and complaints continue, we will be forced to consider that option.

If the tributaries are included within the San Pitch River Distribution System, you will be required to install an adequate measuring device and control structure that can be regulated by the commissioner. You will also be assessed to pay for the salary and expenses incurred by the commissioner in regulating your area.

If you have any questions concerning this letter, please contact me at 538-7380 or Kirk Forbush, Regional Engineer in Richfield, at the number listed above.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee H. Sim", with a stylized, cursive script.

**Lee H. Sim, P.E.
Assistant State Engineer
for Distribution**

**cc: Kirk Forbush, Regional Engineer
Larry Rawlings, Commissioner**